

**Notice of Allowability**

Application No.

10/080,879

Examiner

Bernard E Souw

Applicant(s)

TRUCHE ET AL.

Art Unit

2881

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 04/23/2004.
2. ☒ The allowed claim(s) is/are 1-47 and 49-59.
3. ☒ The drawings filed on 23 April 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 0723a.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Interview***

1. A telephone conference interview was conducted on 07/13/2004 with applicant's representatives, Mr. James Keddie, Mr. Timothy Joyce and Mr. Bret Field. The interview summary filed by applicant on 07/13/2004 is accepted.

### ***Amendment***

2. The Amendment filed on 04/23/2004 in reply to the office action mailed 11/25/2003, has been entered. The present Office Action is made with all the suggested amendments being fully considered.

Claims 1-47 and 49-59 are pending.

### ***Drawings***

3. A formal drawing of the amended Fig.7 has been received. The proposed drawing amendment has been approved in the previous office action.

### ***Specification***

4. The text to Fig.7 in specification, page 10/line 4, having been appropriately amended, the previous objection is now withdrawn.

***Double Patenting Rejections Withdrawn***

5. Applicant's arguments presented during the 07/13/2004 interview regarding all claims provisionally rejected under 35 U.S.C. 101 statutory type double patenting as claiming the same invention as in copending U.S. Patent Application No.10/134,806, are persuasive. All statutory type double patenting rejections are now withdrawn.

6. Applicant's arguments presented during the 07/13/2004 interview regarding claims 1-10, 18, 54-56 and 58 provisionally rejected obviousness type double patenting as being unpatentable over claims and combinations of claims of copending Application No. 10/134,806 are persuasive. The provisional obviousness type double patenting rejections of claims 1-10, 18, 54-56 and 58 are now withdrawn.

***Previous § 102 and § 103 Rejections Withdrawn***

7. Applicant's arguments presented during the 07/13/2004 interview regarding prior art claim rejections under 35 U.S.C. 102(a) and (e) as well as under 35 U.S.C. 103(a) are persuasive. Consequently, all prior art based claim rejections imposed in the previous office actions are now withdrawn.

***Allowance***

8. Claims 1-47 and 49-59 are allowed.

***Reasons for Allowance***

9. The following is an examiner's statement of reasons for allowance:

- A conduit for providing a heated gas flow to an ionization region adjacent to a collecting capillary for enhancing analyte ion detection, as recited in claim 1, is neither anticipated nor rendered obvious by any prior art.
- Claim 11 is allowed for claiming mass spectrometer employing a conduit having the same functions as recited in claim 1.
- Claims 39 and 47 are allowed for claiming an apparatus for mass sensitive ion detection employing an ion enhancement system that --interpreted in light of the specification-- specifically excludes a directly heated collecting capillary while making use of a conduit having the same functions as recited in claim 1.
- A method for enhancing analyte ions for detection, or for producing the same, by heating the ions with a directed gas, as recited in claims 36 and 38, is neither anticipated nor rendered obvious by any prior art.
- Claim 52 is allowed for claiming a method for analyte ion enhancement that --interpreted in light of the specification-- specifically excludes a direct heating of a collecting capillary while using a conduit having the same functions as recited in claim 1.
- Claims 2-10, 12-35, 37, 40-46, 49-51 and 53-59 are allowed are also allowed because of their dependencies, either directly or indirectly, upon claims 1, 11, 36, 38, 39, 47 and/or 52.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard E Souw whose telephone number is 571 272

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2482. The examiner can normally be reached on Monday thru Friday, 9:00 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 571 272 2477. The central fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications as well as for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

bes  
July 23, 2004

  
JOHN R. LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800